



DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG-2012-0394]

RIN 1625-AA11

Regulated Navigation Area; Original Waldo-Hancock Bridge
Removal, Penobscot River, Bucksport, ME

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to establish a regulated navigation area (RNA) on the navigable waters of the Penobscot River near Bucksport, ME, under and surrounding the original Waldo-Hancock Bridge in order to facilitate the removal of the center span. This NPRM is necessary to provide for the safety of life on the navigable waters during bridge deconstruction operations that could pose an imminent hazard to vessels operating in the area. This rule would implement certain safety measures, including speed restrictions and the temporary suspension of vessel traffic during removal operations.

DATES: Comments and related material must be received by the Coast Guard on or before [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]. Requests for public

meetings must be received by the Coast Guard on or before
[INSERT DATE 7 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL
REGISTER] .

ADDRESSES: You may submit comments identified by docket number
USCG-2012-0394 using any one of the following methods:

(1) Federal eRulemaking Portal:

<http://www.regulations.gov>.

(2) Fax: 202-493-2251.

(3) Mail or Delivery: Docket Management Facility (M-30),
U.S. Department of Transportation, West Building Ground Floor,
Room W12-140, 1200 New Jersey Avenue SE, Washington, DC 20590-
0001. Deliveries accepted between 9 a.m. and 5 p.m., Monday
through Friday, except federal holidays. The telephone number is
202-366-9329.

See the "Public Participation and Request for Comments" portion
of the SUPPLEMENTARY INFORMATION section below for further
instructions on submitting comments. To avoid duplication,
please use only one of these three methods. FOR FURTHER

INFORMATION CONTACT: If you have questions on this rule, call
or e-mail Ensign Elizabeth V. Morris, Waterways Management
Division at Coast Guard Sector Northern New England, telephone
207-741-5440, e-mail Elizabeth.V.Morris@uscg.mil; or Lieutenant
Isaac M. Slavitt, Waterways Management at Coast Guard First
District, telephone 617-223-8385, e-mail

Isaac.M.Slavitt@uscg.mil. If you have questions on viewing or submitting material to the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone (202) 366-9826.

SUPPLEMENTARY INFORMATION:

Table of Acronyms

ACOE	Army Corps of Engineers
COTP	Captain of the Port
DHS	Department of Homeland Security
FR	Federal Register
MEDOT	Maine Department of Transportation
NPRM	Notice of Proposed Rulemaking
RNA	Regulated Navigation Area

A. Public Participation and Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related materials. All comments received will be posted without change to <http://www.regulations.gov> and will include any personal information you have provided.

1. Submitting comments

If you submit a comment, please include the docket number for this rulemaking (USCG-2012-0394), indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online at <http://www.regulations.gov>, or by fax, mail, or hand delivery, but please use only one of these means. If you submit a comment online, it will be considered received by the Coast Guard when

you successfully transmit the comment. If you fax, hand deliver, or mail your comment, it will be considered as having been received by the Coast Guard when it is received at the Docket Management Facility. We recommend that you include your name and a mailing address, an e-mail address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

To submit your comment online, go to <http://www.regulations.gov>, type the docket number (USCG-2012-0394) in the "SEARCH" box and click "SEARCH." Click on "Submit a Comment" on the line associated with this proposed rulemaking.

If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the Facility, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period and may change the rule based on your comments.

2. Viewing comments and documents

To view comments, as well as documents mentioned in this preamble as being available in the docket, go to <http://www.regulations.gov>, type the docket number (USCG-2012-0394) in the "SEARCH" box and click "SEARCH." Click on Open

Docket Folder on the line associated with this rulemaking. You may also visit the Docket Management Facility in Room W12-140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

3. Privacy Act

Anyone can search the electronic form of comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review a Privacy Act notice regarding our public dockets in the January 17, 2008, issue of the Federal Register (73 FR 3316).

4. Public meeting

We do not now plan to hold a public meeting. But you may submit a request for one, using one of the methods specified under ADDRESSES. Please explain why you believe a public meeting would be beneficial. If we determine that one would aid this rulemaking, we will hold one at a time and place announced by a later notice in the Federal Register.

B. Regulatory History and Information

On December 16, 2011 the Coast Guard conducted a meeting with the Maine Department of Transportation (MEDOT) to discuss future bridge projects throughout the State of Maine. During

that meeting, the Coast Guard informed MEDOT that the deconstruction of the original Waldo-Hancock Bridge would require an RNA. Minutes from this meeting are available in the docket.

C. Basis and Purpose

Under the Ports and Waterways Safety Act, the Coast Guard has the authority to establish RNAs in defined water areas that are determined to have hazardous conditions and in which vessel traffic can be regulated in the interest of safety. See 33 U.S.C. 1231 and Department of Homeland Security Delegation No. 0170.1.

The purpose of this proposed rule is to ensure the safe transit of vessels in the area, and to protect all persons, vessels, and the marine environment during demolition operations of the original Waldo-Hancock Bridge.

D. Discussion of Proposed Rule

The removal of the original Waldo-Hancock Bridge involves large machinery and construction vessel operations above and in the navigable waters of the Penobscot River. The ongoing operations are, by their nature, hazardous and pose risks both to recreational and commercial traffic as well as to the construction crew. In order to mitigate the inherent risks involved with the removal of a bridge, it is necessary to control vessel movement through the area. The purpose of this

proposed rule is to ensure the safety of waterway users, the public, and construction workers for the duration of the original Waldo-Hancock Bridge removal from September 1, 2012 through June 30, 2013. Heavy-lift operations are sensitive to water movement, and wake from passing vessels could pose significant risk of injury or death to construction workers.

In order to minimize such unexpected or uncontrolled movement of water, the proposed RNA will limit vessel speed and wake of all vessels operating in the vicinity of the bridge removal zone. This will be achieved by enforcing a five knot speed limit and "NO WAKE" zone in the vicinity of the original Waldo-Hancock Bridge removal as well as providing a means to suspend all vessel traffic for emergent situations that pose imminent threat to waterway users in the area. The RNA will also protect vessels desiring to transit the area by ensuring that vessels are only permitted to transit when it is safe to do so.

Under this proposed regulation, the Coast Guard may close the regulated area described in this rule to all vessel traffic during circumstances that pose an imminent threat to waterway users operating in the area. Complete waterway closures will be made with as much advanced notice as possible. The following anticipated closures dates will be enforced for the purpose of bridge removal: October 1, 2012; October 4-9, 2012; November 12-

27, 2012; December 3-7, 2012; and January 7-11, 2013. In addition, the Army Corps of Engineers (ACOE) will perform a suspender cut test during the course of deconstruction. The Coast Guard anticipates a closure date of September 25, 2012, from 9:00 a.m. to 12:00 p.m. to facilitate the ACOE's test. Please note that specific closure dates and times will be noted in the final rulemaking.

The Captain of the Port (COTP) Sector Northern New England will cause notice of enforcement, suspension of enforcement, or closure of this RNA to be made by appropriate means to ensure the widest distribution among the affected segments of the public. Such means of notification may include, but are not limited to, Broadcast Notice to Mariners and Local Notice to Mariners. In addition, the COTP maintains a telephone line that is staffed 24 hours a day, seven days a week. The public can obtain information concerning enforcement of the regulated navigation area by contacting Coast Guard Sector Northern New England Command Center at (207) 767-0303.

E. Regulatory Analyses

We developed this proposed rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on a number of these statutes or executive orders.

1. Regulatory Planning and Review

This proposed rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, as supplemented by Executive Order 13563, Improving Regulation and Regulatory Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of Executive Order 12866 or under section 1 of Executive Order 13563. The Office of Management and Budget has not reviewed it under those Orders.

We expect the economic impact of this rule to be minimal because this regulated navigation area only requires vessels to reduce speed through a limited portion of the Penobscot River, therefore causing only a minimal delay to a vessel's transit. In addition, periods when the RNA is closed to all traffic are expected to be during seasons of low traffic volume, and we will give advance notice of such closures. Please note that specific closure dates and times will be noted in the final rulemaking.

2. Impact on Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601-612), we have considered the impact of this proposed rule on small entities. The Coast Guard certifies under 5 U.S.C. 605(b) that this proposed rule will not have a significant economic impact on a substantial number of small entities.

This proposed rule would affect the following entities, some of which might be small entities: owners or operators of

vessels intending to transit, fish, or anchor in the vicinity of the Original Waldo-Hancock Bridge.

The proposed rule would not have a significant economic impact on a substantial number of small entities for the following reasons: periods when the RNA is closed to all traffic are expected to be during seasons of low traffic volume, also, vessels will be required to reduce speed through a limited portion of the Penobscot River, and, therefore, will only be caused a minimal delay. Notifications will include, but are not limited to, the Local Notice to Mariners and Broadcast Notice to Mariners to inform the public before, during, and at the conclusion of any RNA enforcement period.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment (see ADDRESSES) explaining why you think it qualifies and how and to what degree this rule would economically affect it.

3. Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104-121), we want to assist small entities in understanding this proposed rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its

provisions or options for compliance, please contact the person listed in the FOR FURTHER INFORMATION CONTACT, above. The Coast Guard will not retaliate against small entities that question or complain about this proposed rule or any policy or action of the Coast Guard.

4. Collection of Information

This proposed rule will not call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520.).

5. Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this proposed rule under that Order and determined that this rule does not have implications for federalism.

6. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to contact the person listed in the "For Further Information Contact" section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places or vessels.

7. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531-1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 (adjusted for inflation) or more in any one year. Though this proposed rule would not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

8. Taking of Private Property

This proposed rule would not cause a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

9. Civil Justice Reform

This proposed rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

10. Protection of Children from Environmental Health Risks

We have analyzed this proposed rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and would not create an environmental risk to health or

risk to safety that might disproportionately affect children.

11. Indian Tribal Governments

This proposed rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it would not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

12. Energy Effects

This proposed rule is not a "significant energy action" under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use because it is not a "significant regulatory action" under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. The Administrator of the Office of Information and Regulatory Affairs has not designated it as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

13. Technical Standards

This proposed rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

14. Environment

We have analyzed this proposed rule under Department of Homeland Security Management Directive 023-01 and Commandant Instruction M16475.1D, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321-4370f), and have made a preliminary determination that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment.

This proposed rule involves the establishment of an RNA. This proposed rule is categorically excluded from further review under paragraph 34(g) of Figure 2-1 of the Commandant Instruction. A preliminary environmental analysis checklist supporting this determination is available in the docket where indicated under ADDRESSES.

We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR Part 165 as follows:

PART 165--REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

1. The authority citation for Part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 46 U.S.C. Chapter 701, 3306, 3703; 50 U.S.C. 191, 195; 33 CFR 1.05-1, 6.04-1, 6.04-6, and 160.5; Pub. L. 107-295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

2. Add §165.T01-0394 to read as follows:

§165.T01-0394 Regulated Navigation Area; Original Waldo-Hancock Bridge Removal, Penobscot River, Bucksport, ME

(a) Location. The following area is a Regulated Navigation Area (RNA): All navigable waters of Penobscot River between Bucksport, ME and Verona, ME, from surface to bottom, within a 300 yard radius of position 44°33'38"N, 068°48'05"W.

(b) Regulations.

(1) The general regulations contained in 33 CFR 165.10, 165.11, and 165.13 apply within the RNA.

(2) In accordance with the general regulations, entry into or movement within this zone, during periods of enforcement, is prohibited unless authorized by the Captain of the Port Sector Northern New England (COTP).

(3) Persons and vessels may request permission to enter the RNA during periods of enforcement by contacting the COTP or the COTP's on-scene representative on VHF-16 or via phone at 207-767-0303.

(4) During periods of enforcement, a speed limit of five knots will be in effect within the regulated area and all vessels must proceed through the area with caution and operate in such a manner as to produce no wake.

(5) During periods of enforcement, vessels must comply with all directions given to them by the COTP or the COTP's on-scene representative. The "on-scene representative" of the COTP is any Coast Guard commissioned, warrant or petty officer who has been designated by the COTP to act on the COTP's behalf. The on-scene representative may be on a Coast Guard vessel; Maine State Police, Maine Marine Patrol or other designated craft; or may be on shore and communicating with vessels via VHF-FM radio or loudhailer. Members of the Coast Guard Auxiliary may be present to inform vessel operators of this regulation.

(6) During periods of enforcement, upon being hailed by a U.S. Coast Guard vessel by siren, radio, flashing light or other means, the operator of the vessel must proceed as directed.

(7) All other relevant regulations, including but not limited to the Rules of the Road (33 CFR §84 - Subchapter E, Inland Navigational Rules) remain in effect within the regulated area and must be strictly followed at all times.

(c) Enforcement Period. This regulation is enforceable 24 hours a day from 5:00 a.m. on September 1, 2012 until 11:59 p.m. on June 30, 2013.

(1) Prior to commencing or suspending enforcement of this regulation, the COTP will give notice by appropriate means to inform the affected segments of the public, to include dates and times. Such means of notification will include, but are not limited to, Broadcast Notice to Mariners and Local Notice to Mariners.

(2) Violations of this RNA may be reported to the COTP at 207-767-0303 or on VHF-Channel 16.

Dated: June 29, 2012

D. B. Abel,
Rear Admiral, U.S. Coast Guard
Commander, First Coast Guard District

[FR Doc. 2012-17221 Filed 07/13/2012 at 8:45 am; Publication Date: 07/16/2012]